

REMARKS***Summary of the Amendment***

Upon entry of the above amendment, claims 1, 6, 18, 20, 22, and 24 will have been amended. Accordingly, claims 1 – 10 and 12 – 25 currently remain pending.

Summary of the Official Action

In the instant Office Action, the Examiner has objected to the drawings for failing to show all of the recited features of the invention and to certain claims for informal matters, and has rejected claims 1 – 10, 12, 13, 15 – 17, and 20 – 22 based upon formal matters and claims 1 – 6, 9, 10, 12, 13, 15 – 21, and 23 – 25 over the art of record. Moreover, the Examiner has indicated that claim 14 is allowed and claims 7, 8 and 22 contain allowable subject matter and would be allowable if presented in independent forms that include the features of their respective base claims and any intervening claims. By the present amendment and remarks, Applicants submit that the objections and rejections have been overcome, and respectfully request reconsideration of the outstanding Office Action and allowance of the present application.

Acknowledgment of Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's indication that claim 14 is allowed and claims 7, 8 and 22 contain allowable subject matter and would be allowable if presented in independent forms that include the features of their respective base claims and any intervening claims.

Traversal of Objection to the Drawings

Applicants traverse the current objection to the drawings. The Examiner asserts

the drawings do not show the end positions of the predetermined longitudinal axial displacement.

While Applicants submit each Figures shows the end positions, Figure 3 may be the best illustration of the longitudinal axial displacement. Moreover, Applicants note that Figure 6 clearly and unambiguously shows the end positions of the predetermined longitudinal axial displacement.

As the subject matter noted by the Examiner is in fact shown in the drawings, Applicants submit the objection is moot and should be withdrawn. Accordingly, Applicants request the Examiner confirm the acceptance of the drawings in the next official communication.

Traversal of Objection to Claims

Applicants traverse the Examiner's objection to claims 1, 6, 8, 12, 13, 17, 18, 21, and 22 based upon informalities.

By the present amendment, Applicants submit that the Examiner's objections have been rendered moot.

Accordingly, Applicants submit that the pending claims are in proper form, and request that the Examiner reconsider and withdraw the objection to claims 1, 6, 8, 12, 13, 17, 18, 21, and 22 and indicate that these claims are acceptable.

Rejection Under 35 U.S.C. § 112, Second Paragraph, is Moot

By the present amendment, Applicants submit the rejection of claims 1 – 10, 12, 13, 15 – 17, and 20 – 22 under 35 U.S.C. § 112, second paragraph, as being indefinite is moot.

Applicants have amended the claims to address the formal concerns raised by

the Examiner in the pending Office Action.

Therefore, Applicants request that the Examiner reconsider and withdraw the rejection of claims 1 – 10, 12, 13, 15 – 17, and 20 – 22 under 35 U.S.C. § 112, second paragraph, and indicate that these claims are fully in compliance with the statute.

Traversal of Rejection Under 35 U.S.C. § 112, Second Paragraph

Applicants submit the rejection of claims 18 and 24 under 35 U.S.C. § 112, second paragraph, as omitting essential elements.

With regard to independent claim 18, Applicants note this is a process claims. As the claim recites a process, Applicants are unaware of any requirement for reciting structure. In any event, Applicants note that the instant application fails to provide any disclosure that the elements identified by the Examiner are in fact necessary or essential (nor has the Examiner identified such disclosure), such that the Examiner does not have adequate basis to support this rejection.

Further, while Applicants have amended claim 24 in an effort to clarify the recited subject matter, Applicants traverse the Examiner's assertions that the instant application discloses any elements as being essential or necessary, so as to require recitation in the claims. In any event, Applicants submit claim 24 is in proper form for examination.

Therefore, Applicants request that the Examiner reconsider and withdraw the rejection of claims 18 and 24 under 35 U.S.C. § 112, second paragraph, and indicate that these claims are fully in compliance with the statute.

Traversal of Rejection Under 35 U.S.C. § 102(b)

Applicants traverse the rejection of claim 1 – 6, 9 – 13, 15 – 21, and 23 – 25

under 35 U.S.C. § 102(b) as being anticipated by CROSARA (European Patent Application No. 1 138 215). The Examiner asserts that CROSARA shows all of the recited features of the above-noted claims.

Applicants again note that known spreading drums and sliding drums provide a predetermined longitudinal axial lift (or displacement) between articles on these drums. However, due to their construction, the available lift or the longitudinal axial displacement for the articles is fixed. In contrast, the instant invention provides a conveyor drum in which end positions of a predetermined longitudinal lift for the conveyed articles can be changed or adjusted, i.e., the lift or displacement is not fixed.

Further, Applicants' independent claim 1 recites, *inter alia*, an adjustment device structured and arranged to adjust end positions of the predetermined longitudinal axial displacement. Moreover, Applicants' independent claim 18 recites, *inter alia*, adjusting end positions of the predetermined range, whereby a magnitude of the predetermined range is adjusted. Applicants submit CROSARA fails to disclose at least the above-noted features.

As with the above-identified known spreading drums, CROSARA shows a parting drum in which cigarette portions 5a and 5b are arranged on holder slides 10. As the drum rotates, holder slides 10 move relative to each other according to a track defined in a cam drum 17. Thus, the end positions of the longitudinal axial displacement, as well as the longitudinal axial displacement or parting of the cigarette portions is predefined by the tracks formed in cam drum 17, and there is no teaching or suggestion for adjusting these end positions in order to alter or change the resultant longitudinal axial displacement. Therefore, Applicants submit, in contrast to the instant invention,

the predefined track of CROSARA and the end positions of the predefined tracks cannot be changed or modified.

While the Examiner asserts that the feature of a fixed or not fixed track is not recited in the claims, Applicants submit that independent claim 1 recites an adjustment device structured and arranged to adjust end positions of the predetermined longitudinal axial displacement, while independent claim 18 recites a process that includes adjusting end positions of the predetermined range, whereby a magnitude of the predetermined range is adjusted. Applicants submit that these recitations render the predetermined axial spacing adjustable, and, therefore, not fixed.

For the foregoing reasons, Applicants submit that CROSARA fails to disclose an adjustment device structured and arranged to adjust end positions of the predetermined longitudinal axial displacement, as recited in at least independent claim 1, and fails to disclose adjusting end positions of the predetermined range, whereby a magnitude of the predetermined range is adjusted, as recited in at least independent claim 18.

Further, as CROSARA merely shows sliding plates guided along a fixed path in a cam drum, Applicants submit that CROSARA fails to provide any disclosure of the wobble plates recited in at least claims 4 – 6, 9, 10, 12, 13, 20, 21, 24, and 25. Further, while the Examiner continues to assert that the slides 10 of CROSARA are wobble plates, he has still not pointed to any teaching in CROSARA to support his position. In fact, as CROSARA expressly discloses that reference numeral 10 identifies a slide, the Examiner's assertions appear wholly contrary to the express disclosure of the applied art. Accordingly, should the Examiner wish to maintain this ground of rejection, Applicants request the Examiner expressly identify the disclosure in CROSARA of a

wobble plate, as recited in the pending claims.

Because CROSARA fails to disclose at least the above-noted features, Applicants submit that the applied art fails to show each and every recited feature of the present invention, and that the Examiner has failed to provide an adequate evidentiary basis to support a rejection of anticipation under 35 U.S.C. § 102(b).

Further, Applicant submits that claims 2, 3, 15 – 19, and 23 are allowable at least for the reason that these claims depend from allowable base claims and because these claims recite additional features that further define the present invention. In particular, Applicants submit that CROSARA fails to anticipate, *inter alia*, said conveyor drum is structured and arranged in a tobacco processing apparatus, as recited in claim 2; a said lifting device is positioned to act on each fed row of articles, as recited in claim 3; said conveyor drum is structured as a spreading drum, as recited in claim 15; said conveyor drum is formed as a sliding drum, as recited in claim 16; a machine of the tobacco processing industry comprising the above-recited at least one conveyor drum, as recited in claim 17; said process is performed by a conveyor drum, as recited in claim 19; and an apparatus to perform the recited process, in which the apparatus includes a plurality of aligned positionably adjustable seats, a lifting device coupled to said plurality of aligned positionably adjustable seats, and an adjustment device coupled to said lifting device, as recited in claim 23.

Accordingly, Applicants request that the Examiner reconsider and withdraw the rejection of claims 1 – 6, 9, 10, 12, 13, 15 – 21, and 23 – 25 under 35 U.S.C. § 102(b) and indicate that these claims are allowable.

Application is Allowable

Thus, Applicants respectfully submit that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 102 and 103, and respectfully request the Examiner to indicate allowance of each and every pending claim of the present invention.

Authorization to Charge Deposit Account

The undersigned authorizes the charging of any necessary fees, including any extensions of time fees required to place the application in condition for allowance by Examiner=s Amendment, to Deposit Account No. 19 - 0089 in order to maintain pendency of this application.

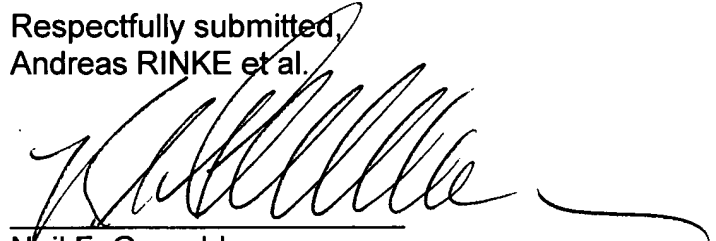
CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicants' invention, as recited in each of claims 1 – 10 and 12 – 25. The claims have been amended to eliminate any arguable basis for objection or rejection based upon formal or informal matters. In addition, the applied reference of record has been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Respectfully submitted,
Andreas RINKE et al.

A handwritten signature in black ink, appearing to read 'Neil F. Greenblum', is written over a horizontal line.

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